

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

AUDIT REFERRAL: 08-06
DATE ACTIVATED: April 11, 2008
EPS:
EXPIRATION OF SOL: January 10, 2011

SOURCE: INTERNALLY GENERATED

RESPONDENT: Joseph Shannon for Congress Committee and
Joseph A. Gyarmathy, in his official capacity as
treasurer

RELEVANT STATUTES: 2 U.S.C. § 432(d)
2 U.S.C. § 434(b)
2 U.S.C. § 441b

INTERNAL REPORTS CHECKED: Audit Documents
Disclosure Reports

FEDERAL AGENCIES CHECKED: None

1. INTRODUCTION

This matter was generated by a Commission audit pursuant to 2 U.S.C. § 438(b) of the Joseph Shannon for Congress Committee ("the Committee" or "JSCC") covering the period of February 2, 2006 through December 31, 2006. The Audit Division forwarded a proposed Final Audit Report to the Commission on March 27, 2008, and an updated Final Audit Report on October 15, 2008. The Commission approved the updated Final Audit Report on December 3, 2008, and Findings 1, 2, 3, and 4 of the Final Audit Report were referred to the Office of the General Counsel for enforcement. Based on the information set forth in the Final Audit Report, we recommend that the Commission make reason to believe findings as follows:

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- The Committee violated 2 U.S.C. § 441b(a) by knowingly accepting corporate contributions. *See* Finding 1, Attachment 1 at 1.
- The Committee violated 2 U.S.C. § 434(b) by misstating its financial activity for 2006. *See* Finding 2, Attachment 1 at 2-3.
- The Committee violated 2 U.S.C. § 434(b) by failing to adequately disclose its disbursements for 2006. *See* Finding 3, Attachment 1 at 3-4.
- The Committee violated 2 U.S.C. § 432(d) by failing to maintain copies of contribution checks. *See* Finding 4, Attachment 1 at 5-6.

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16 **III. RECOMMENDATIONS**

17 **I. Open a MUR.**

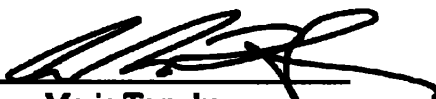
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2. Find reason to believe that the Joseph Shannon for Congress Committee and Joseph A. Gyarmathy, in his official capacity as treasurer, violated 2 U.S.C. § 441b(a).
3. Find reason to believe that the Joseph Shannon for Congress Committee and Joseph A. Gyarmathy, in his official capacity as treasurer, violated 2 U.S.C. § 434(b).
4. Find reason to believe that the Joseph Shannon for Congress Committee and Joseph A. Gyarmathy, in his official capacity as treasurer, violated 2 U.S.C. § 432(d).
5. Approve the attached Factual and Legal Analysis.
6.
7.
8. Approve the appropriate letter.

Thomasenia P. Duncan
General Counsel

12/1/08
Date

BY:


Ann Marie Terzaken
Associate General Counsel for Enforcement


Mark R. Allen
Acting Assistant General Counsel


Michael A. Columbo
Attorney

Attachments:

1. Final Audit Report of the Audit Division on Joseph Shannon for Congress Committee



Report of the Audit Division on the Joseph Shannon for Congress Committee

February 2, 2006 – December 31, 2006

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Campaign (p. 2)

The Joseph Shannon for Congress Committee is the principal campaign committee for Joseph Shannon, Democratic candidate for the U.S. House of Representatives from the state of Illinois, 13th Congressional District and is headquartered in Woodridge, Illinois. For more information see the Campaign Organization Chart, p. 2.

Financial Activity (p. 2)

- **Receipts**
 - From Individuals \$ 137,329
 - From Political Committees 43,600
 - Candidate Loans & Contribution 25,729
 - **Total Receipts** \$ 206,658
- **Disbursements**
 - Operating Expenditures & Other Disbursements \$ 206,280
 - **Total Disbursements** \$ 206,280

Findings and Recommendations (p. 3)

- Receipt of Apparent Prohibited Contributions (Finding 1)
- Misstatement of Financial Activity (Finding 2)
- Disclosure of Disbursements (Finding 3)
- Receipts Documentation (Finding 4)

¹ 2 U.S.C. §438(b).

**Report of the
Audit Division on the Joseph
Shannon for Congress Committee**

February 2, 2006 – December 31, 2006



Table of Contents

	Page
Part I. Background	
Authority for Audit	1
Scope of Audit	1
Scope Limitation	1
Part II. Overview of Campaign	
Campaign Organization	2
Overview of Financial Activity	2
Part III. Summaries	
Findings and Recommendations	3
Part IV. Findings and Recommendations	
Finding 1. Receipt of Apparent Prohibited Contributions	4
Finding 2. Misstatement of Financial Activity	5
Finding 3. Disclosure of Disbursements	7
Finding 4. Receipts Documentation	8

Part I

Background

Authority for Audit

This report is based on an audit of the Joseph Shannon for Congress Committee (JSCC), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 2 U.S.C. §438(b).

Scope of Audit

This audit examined:

1. The receipt of excessive contributions and loans.
2. The receipt of contributions from prohibited sources.
3. The disclosure of contributions received.
4. The disclosure of disbursements, debts and obligations.
5. The consistency between reported figures and bank records.
6. The completeness of records.
7. Other committee operations necessary to the review.

Scope Limitation

Although JSCC met the recordkeeping requirements of 2 U.S.C. §432(c), it did not maintain externally generated documentation such as invoices, bills, or receipts for about 60% of its disbursements. The lack of these records limited our testing for the proper reporting of debts and obligations, personal use of campaign funds and the adequacy of disclosure information such as payee, address and purpose of disbursements (See Finding 3). Further, JSCC did not comply with the recordkeeping requirement, 11 CFR §102.9(a)(4), which requires committees to maintain a copy of contributor checks in excess of \$50 (See Finding 4). The lack of these records limited the Audit staff's testing of prohibited contributions, the timeliness of deposits, the accuracy of election designations and contributor attributions.

Part II

Overview of Campaign

Campaign Organization

Important Dates	Joseph Shannon for Congress Committee
• Date of Registration	February 21, 2006
• Audit Coverage	February 2, 2006 – December 31, 2006
Headquarters	Woodridge, Illinois
Bank Information	
• Bank Depositories	One
• Bank Accounts	One checking account
Treasurer	
• Treasurer When Audit Was Conducted	Joseph A. Gyarmathy (inception to present)
• Treasurer During Period Covered by Audit	Joseph A. Gyarmathy (inception to present)
Management Information	
• Attended FEC Campaign Finance Seminar	No
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting, Recordkeeping Tasks and Other Day-to-Day Operations	Campaign staff

Overview of Financial Activity (Audited Amounts)

Cash on hand @ February 2, 2006	\$ -0-
Receipts	
o From Individuals	\$ 137,329
o From Political Committees	43,600
o Candidate Loans & Contribution	25,729
Total Receipts	\$ 206,658
Disbursements	
o Operating Expenditures & Other Disbursements	\$ 206,280
Total Disbursements	\$ 206,280
Cash on hand @ December 31, 2006	\$ 378

Part III

Summaries

Findings and Recommendations

Finding 1. Receipt of Apparent Prohibited Contributions

The Audit staff identified six contributions totaling \$3,350 which appear to be from corporations. In response to the interim audit report, JSCC provided copies of refund checks it had issued for all six contributions. (For more detail, see p. 4).

Finding 2. Misstatement of Financial Activity

A comparison of JSCC reported activity to bank records for 2006 revealed misstatements for receipts, disbursements and ending cash on hand. Receipts were overstated by \$10,162, disbursements overstated by \$19,564 and ending cash on hand was understated by \$17,582. In response to the interim audit report, JSCC noted it is committed to amending its reports and detailed its unsuccessful attempt to amend its disclosure reports to correct the misstatements. JSCC filed amended reports approximately four months after the final audit report was submitted to the Commission for approval which materially corrected the misstatements noted above. (For more detail, see p. 5).

Finding 3. Disclosure of Disbursements

The Audit staff noted 56 disbursements totaling \$160,391 for which disclosure of the purpose and/or address was either absent or inaccurate. Inadequate recordkeeping of purposes contributed significantly to this problem. In response to the interim audit report, JSCC noted it is committed to amending its reports and detailed its unsuccessful attempt to amend its reports to correct the disclosure of these disbursements. JSCC filed amended reports approximately four months after the final audit report was submitted to the Commission for approval which materially corrected the disclosure errors noted above. (For more detail see p. 7).

Finding 4. Receipts Documentation

JSCC failed to maintain copies of contributor checks, as required, for 35 contributions, totaling \$30,775. In response to the interim audit report, JSCC stated that an oversight resulted in the copies of contributor checks either not being made or the copies misplaced. Although having limited success, JSCC will continue to attempt to obtain the missing check copies. (For more detail, see p. 8).

Part IV

Findings and Recommendations

Finding 1. Receipt of Apparent Prohibited Contributions

Summary

The Audit staff identified six contributions totaling \$3,350 which appear to be from corporations. In response to the interim audit report, JSCC provided copies of refund checks it had issued for all six contributions.

Legal Standard

Receipt of Prohibited Contributions – General Prohibition. Candidates and committees may not accept contributions (in the form of money, in-kind contributions or loans) from the treasury funds of corporations (this means any incorporated organization, including a non-stock corporation, an incorporated membership organization, and an incorporated cooperative. 2 U.S.C. §441b(a).

Facts and Analysis

The Audit staff reviewed all contributions received by JSCC and identified 6 contributions totaling \$3,350² from corporations. The corporate status of the entities at the time the contribution was made was verified with the Secretary of State.

The Audit staff presented this matter to JSCC's representatives during the exit conference along with a schedule of the apparent prohibited contributions, copies of the contributor checks and copies of the verifications of corporate status. A discussion of corporations ensued and JSCC's representative indicated these items would be rectified.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that JSCC provide evidence that these contributions were not prohibited. Absent such evidence, it was recommended that JSCC refund the \$3,350 to the contributors and provide documentation for such refunds (i.e. copies, front and back, of each negotiated refund check); or disgorge these funds to the U.S. Treasury. If funds were not available to make the refunds, then the refund amount due should have been disclosed on Schedule D until funds became available to make the refunds.

In its response, JSCC submitted copies of refund checks issued for all six prohibited contributions as well as some bank documentation and related refund transmittal letters/emails. The documentation indicated that refunds for three of the prohibited contributions (\$1,500) had been negotiated. The Audit staff advised JSCC documentation indicating the remaining refunds (\$1,850) have been negotiated is still required.

² This amount could have increased as a result of documentation submitted in response to Finding 4., Receipts Documentation; however, to date, no additional documentation has been provided.

Finding 2. Misstatement of Financial Activity

Summary

A comparison of JSCC reported activity to bank records for 2006 revealed misstatements for receipts, disbursements and ending cash on hand. Receipts were overstated by \$10,162, disbursements overstated by \$19,564 and ending cash on hand was understated by \$17,582. In response to the interim audit report, JSCC noted it is committed to amending its reports and detailed its unsuccessful attempt to amend its disclosure reports to correct the misstatements. JSCC filed amended reports approximately four months after the final audit report was submitted to the Commission for approval which materially corrected the misstatements noted above.

Legal Standard

Contents of Reports: Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
- The total amount of receipts for the reporting period and for the election cycle;
- The total amount of disbursements for the reporting period and for the election cycle; and
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 2 U.S.C. §434(b)(1), (2), (3), (4) and (5).

Facts and Analysis

The Audit staff reconciled JSCC's reported financial activity to its bank records for 2006. The following charts outline the discrepancies and succeeding paragraphs address the reasons for the misstatements.

2006 Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance at February 2, 2006	\$0	\$0	\$0
Receipts	\$216,820	\$206,658	\$10,162 Overstated
Disbursements	\$225,844	\$206,280	\$19,564 Overstated
Ending Cash Balance at December 31, 2006	\$(17,204) ³	\$378	\$17,582 ⁴ Understated

The net overstatement of receipts in 2006 was the result of the following:

- | | |
|--|------------|
| • In-kind contributions not reported | + \$ 5,200 |
| • Reported receipts not supported by a deposit or credit | - 23,154 |

³ These figures do not foot mainly as the result of errors arising from the ending cash balance of one report differing from the beginning cash on hand balance of the subsequent report.

⁴ Ibid.

• Receipts not reported	+	7,047
• Unexplained understatement	+	745
• Net Overstatement of Receipts	-	\$ 10,162

The net overstatement of disbursements in 2006 was the result of the following:

• In-kind contributions not reported	+	\$ 5,200
• Operating expenditures not reported	+	18,612
• Disbursement amount reported incorrectly	+	270
• Disbursement reported not supported by a check or debit.	-	44,024
The majority appear to be duplicate entries.		
• Unexplained Understatement	+	378
• Net Overstatement of Disbursements	-	\$ 19,564

As a result of the misstatements detailed above and errors arising from the ending cash balance of one report differing from the beginning cash on hand balance of the subsequent report, ending cash on hand for 2006 was understated by \$17,582.

The Audit staff presented this matter to JSCC representatives during the exit conference along with schedules detailing the discrepancies. JSCC representatives indicated amendments would be filed.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that JSCC:

- File amended reports to correct the misstatements; and,
- Amend the cash balance of its most recent report with an explanation that it resulted from audit adjustments from a prior period.

In response to the interim audit report, JFCC indicated that one amended report had been transmitted and that it had difficulty submitting additional amended reports. JSCC's response notes its commitment to correcting all reports.

The Audit staff determined that the report JSCC indicated had been transmitted had not been filed. In addition, JSCC was advised that the amended reports had to be filed for it to be considered in compliance with the Audit staff's recommendation. JSCC was also provided information on Commission staff that could assist in the filing of amended reports.

JSCC filed amended reports approximately four months after the final audit report was submitted to the Commission for approval which materially corrected the misstatements noted above.

Finding 3. Disclosure of Disbursements

Summary

The Audit staff noted 56 disbursements totaling \$160,391 for which disclosure of the purpose and/or address was either absent or inaccurate. Inadequate recordkeeping of purposes contributed significantly to this problem. In response to the interim audit report, JSCC noted it is committed to amending its reports and detailed its unsuccessful attempt to amend its reports to correct the disclosure of these disbursements. JSCC filed amended reports approximately four months after the final audit report was submitted to the Commission for approval which materially corrected the disclosure errors noted above.

Legal Standard

A. Reporting Operating Expenditures: When operating expenditures to the same person exceed \$200 in an election cycle, the committee must report the:

- Amount;
- Date when the expenditures were made;
- Name and address of the payee; and
- Purpose (a brief description of why the disbursement was made—see below). 2 U.S.C. §434(b)(5)(A) and 11 CFR §104.3(b)(4)(i).

B. Examples of Purpose.

- **Adequate Descriptions.** Examples of adequate descriptions of "purpose" include the following: dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, catering costs, loan repayment, or contribution refund. 11 CFR §104.3 (b)(4)(i)(A).
- **Inadequate Descriptions.** The following descriptions do not meet the requirement for reporting "purpose": advance, election day expenses, other expenses, expense reimbursement, miscellaneous, outside services, get-out-the-vote, and voter registration. 11 CFR §104.3 (b)(4)(i)(A).

Facts and Analysis

The Audit staff reviewed 79 disbursements, totaling \$180,307 for adequacy of disclosure. Of these, 56 disbursements, totaling \$160,391, or about 90% of the dollars reviewed, were not adequately disclosed. For most of these disbursements, the purpose was not disclosed. Additionally, for some disbursements the address was incorrectly disclosed. Some of the inadequate disclosure appears to have resulted from the information not being maintained in JSCC records (See Scope Limitation, page 1).

The Audit staff presented this matter to JSCC representatives during the exit conference along with schedules detailing the discrepancies. JSCC representatives indicated amendments would be filed.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that JSCC amend its reports to adequately disclose these disbursements. In response to the interim audit report, JFCC indicated that one amended report had been transmitted and that it had difficulty submitting additional amended reports. JSCC's response notes its commitment to correcting all reports.

The Audit staff determined that the report JSCC indicated had been transmitted had not been filed. In addition, JSCC was advised that the amended reports had to be filed for it to be considered in compliance with the Audit staff's recommendation. JSCC was also provided information on Commission staff that could assist in the filing of amended reports.

JSCC filed amended reports approximately four months after the final audit report was submitted to the Commission for approval which materially corrected the disclosure errors noted above.

Finding 4. Receipts Documentation

Summary

JSCC failed to maintain copies of contributor checks, as required, for 35 contributions, totaling \$30,775. In response to the interim audit report, JSCC stated that an oversight resulted in the copies of contributor checks either not being made or the copies misplaced. Although having limited success, JSCC will continue to attempt to obtain the missing check copies.

Legal Standard

A. Recordkeeping Requirements for Receipts. Political committees must keep records of:

- All contributions received by or on behalf of the committee;
- The name and address of any person who makes a contribution in excess of \$50, together with the date and amount of the contribution; and
- The occupation and name of employer of any individual whose contributions aggregate more than \$200 during a calendar year, together with the date and amount of any such contributions. 2 U.S.C. §432(c).

B. Retention of Check Copies. For contributions in excess of \$50, committees must maintain a photocopy or digital image of the check or written instrument. 2 U.S.C. §102.9(A)(4)

C. Preserving Documents. Committees must preserve these records for 3 years after a report is filed. 2 U.S.C. §432(d).

Facts and Analysis

As part of its review of all receipts, the Audit staff noted that JSCC failed to maintain copies of contributor checks, as required, for 35 contributions, totaling \$30,775. Most of

the missing check copies involved contributions received during February and March 2006, shortly after JSCC's inception.

The Audit staff presented this matter to the JSCC representative during the exit conference. The representative indicated efforts would be made to obtain the missing check copies. Some additional records have been provided and the representative indicated his efforts to locate additional check copies continue.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that JSCC further attempt to obtain the missing contribution records by contacting its bank and having any additional records located sent directly to the Audit staff; and provide any comments it may yet have relative to this matter.

In its response to the interim audit report, JSCC stated that due to an oversight at the initial fundraiser, copies of contributor's checks were either not made or misplaced. Since being notified of this issue during the audit, JSCC has diligently attempted to obtain copies of the missing checks from contributors. All copies obtained have been forwarded. Due to the length of time since the campaign, and limited committee resources, JSCC has had limited success in this regard. The response advises that JSCC will continue to attempt to obtain those copies not yet supplied, has fully cooperated with all requests from the Commission and has used its best efforts to correct the findings documented by the audit.

JSCC's response did not contain any copies of contributor checks; as such, \$30,775 in contributions from individuals remains undocumented.